

PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

DA 02-1453
June 20, 2002

**COMMENTS REQUESTED ON THE JOINT APPLICATION
BY BELLSOUTH CORPORATION FOR AUTHORIZATION UNDER
SECTION 271 OF THE COMMUNICATIONS ACT TO
PROVIDE IN-REGION, INTERLATA SERVICE IN THE
STATES OF ALABAMA, KENTUCKY, MISSISSIPPI,
NORTH CAROLINA AND SOUTH CAROLINA**

WC DOCKET NO. 02-150

On June 20, 2002, BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc., (collectively BellSouth) filed an application for authorization to provide in-region, interLATA service in the States of Alabama, Kentucky, Mississippi, North Carolina and South Carolina pursuant to section 271 of the Communications Act of 1934, as amended (the Act), 47 U.S.C. § 271. Pursuant to section 271 of the Act, an applicant must demonstrate compliance with section 271 on a state-by-state basis. This Public Notice establishes certain procedural requirements relating to consideration of BellSouth's joint application. The Commission, in a prior Public Notice, adopted general procedural requirements that apply to the processing of this and all other applications for authorization under section 271 of the Act.¹ A copy of this earlier Public Notice is attached hereto. Also attached is a protective order adopted today, *Application of BellSouth Corporation, Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Alabama, Kentucky, Mississippi, North Carolina and South Carolina*, Protective Order, DA 02-1454 (WCB rel. June 20, 2002), that establishes the conditions under which access will be made available to confidential documents submitted in this proceeding by BellSouth or any other party.

Comments By Interested Third Parties. Comments by interested third parties in support of or in opposition to BellSouth's application must be filed on or before **July 11, 2002**, and must be filed in conformance with the procedures set forth in the attached March 23, 2001 Public Notice. As in prior section 271 application proceedings, comments may not exceed 100 pages. Recognizing that this application covers five states, however, the Commission retains discretion to extend the

¹ See *Updated Filing Requirements for Bell Operating Company Applications Under Section 271 of the Communications Act*, Public Notice, 16 FCC Rcd 6923 (2001) (March 23, 2001 Public Notice).

page limit, upon request, if a commenter requires additional pages to address circumstances specific to a particular state.²

An original and four copies of all comments must be filed with Marlene H. Dortch, Secretary, Office of the Secretary, 445 12th Street, SW, CY-B402, Washington D.C. 20554. In addition, 12 copies of each comment must be delivered to Janice Myles, Wireline Competition Bureau, 445 12th Street SW, Room 5-B145, Washington, D.C., 20554, and one copy to Qualex International, Portals II, 445 12th Street SW, Room CY-B402, Washington D.C., 20554. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. Comments filed through the ECFS can be sent as an electronic file via the Internet to: <<http://www.fcc.gov/e-file/ecfs.html>>. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the docket number of this proceeding. Only one copy of an electronic submission must be filed. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form<your e-mail address>." A sample form and directions will be sent in reply.

Parties that choose to file by paper must file an original and four copies of each, and are hereby notified that effective December 18, 2001, the Commission's contractor, Vistrionix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at a new location in downtown Washington, D.C. The address is **236 Massachusetts Avenue, NE, Suite 110, Washington, D.C. 20002**. The filing hours at this location will be 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. This facility is the only location where hand-delivered or messenger-delivered paper filings for the Commission's Secretary will be accepted. Accordingly, the Commission will no longer accept these filings at 9300 East Hampton Drive, Capitol Heights, MD 20743. In addition, this is a reminder that, effective October 18, 2001, the Commission discontinued receiving hand-delivered or messenger-delivered filings for the Secretary at its headquarters location at 445 12th Street, SW, Washington, D.C. 20554.

Other messenger-delivered documents, including documents sent by overnight mail (other than United States Postal Service (USPS) Express Mail and Priority Mail), must be addressed to 9300 East Hampton Drive, Capitol Heights, MD 20743. This location will be open 8:00 a.m. to 5:30 p.m. The USPS first-class mail, Express Mail, and Priority Mail should continue to be addressed to the Commission's headquarters at 445 12th Street, SW, Washington, D.C. 20554. The USPS mail addressed to the Commission's headquarters actually goes to our Capitol Heights facility for screening prior to delivery at the Commission.

² Parties anticipating that they may require additional pages for comments or reply comments are asked to contact Susan Pié, FCC, Wireline Competition Bureau, at (202) 418-1443 or Aaron Goldberger at 418-1591 as soon as possible.

| If you are sending this type of document or using this delivery method... | It should be addressed for delivery to... |
|--|---|
| Hand-delivered or messenger-delivered paper filings for the Commission's Secretary | 236 Massachusetts Avenue, NE, Suite 110, Washington, D.C. 20002 (8:00 to 7:00 p.m.) |
| Other messenger-delivered documents, including documents sent by overnight mail (other than United States Postal Service Express Mail and Priority Mail) | 9300 East Hampton Drive, Capitol Heights, MD 20743 (8:00 a.m. to 5:30 p.m.) |
| United States Postal Service first-class mail, Express Mail, and Priority Mail | 445 12 th Street, SW Washington, D.C. 20554 |

Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, D.C., 20554. They may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, D.C., 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail qualexint@aol.com.

State Commission and Department of Justice Written Consultations. The Alabama, Kentucky, Mississippi, North Carolina and South Carolina state commissions must file any written consultation on or before **July 11, 2002**.³ Any written consultation by the U.S. Department of Justice, which by the Act's express terms must become part of the Commission's record, must be filed on or before **July 30, 2002**. Because the state commissions and the Department of Justice are given roles by statute in a section 271 proceeding, copies of all pleadings, including comments, should be filed with those parties.⁴

Replies. All participants in the proceeding -- the applicant, interested third parties, the State Commissions, and the Department of Justice -- may file a reply to any comments filed by any other participant on or before **August 5, 2002**. Reply comments may not exceed 50 pages, unless parties request additional pages to address state-specific circumstances, as described above. An original and four copies of all reply comments must be filed with the Commission Secretary, Marlene H. Dortch, 445 12th Street, SW, CY-B402, Washington D.C., 20554. In addition, 12 copies of each reply must be delivered to Janice Myles, Common Carrier Bureau,

³ We have asked state commissions to file written consultations on the same day as interested parties file comments.

⁴ Please forward copies to the attention of: (1) John Garner, Administrative Law Judge, Alabama Public Service Commission, P.O. BOX 304260, 100 N. Union Street, RSA Union, Suite 836, Montgomery, AL 36104; (2) Deborah Eversole, General Counsel, Kentucky Public Service Commission, P.O. BOX 615, 211 Sower Boulevard, Frankfort, Kentucky 40602-0615; (3) Brian U. Ray, Executive Secretary, Mississippi Public Service Commission, P.O. BOX 1174, Jackson, MS 39215-1174; (4) Robert H. Bennick, Jr., Director, Administrative Division, General Counsel, North Carolina Utilities Commission, 4325 Mail Service Center, Raleigh, NC 27699-4325; (5) Gary E. Walsh, Executive Director, Public Service Commission of South Carolina, 101 Executive Center Drive, Columbia, SC 29210; and (6) James Davis-Smith, U.S. Department of Justice, Antitrust Division, Telecommunications Task Force, 1401 H St., NW, Suite 8000, Washington, D.C. 20005.

445 12th Street SW, Room 5-B145, Washington, D.C., 20554, and one copy to Qualex International, Portals II, 445 12th Street SW, Room CY-B402, Washington D.C., 20554. Effective August 28, 2001, Qualex International will begin working with the Consumer Information Bureau's Reference Information Center (RIC) as the official duplicating contractor.

Treatment of Confidential Information. To the extent a submission by any party (including the applicant, the Department of Justice, the relevant state commissions or any commenter) includes confidential information or comments on confidential information that another participant has submitted, the party must file with the Office of the Secretary: (a) one copy of only the portion(s) of the submission that contain confidential information or comment on confidential information that another participant has submitted, exclusive of the remainder of the submission; and (b) one original and two copies of the entire confidential submission in redacted form. Each of the submissions described in items (a) and (b) must be accompanied by a cover letter. The submission described in item (a) and accompanying cover letter should be stamped **“Confidential—Not for Public Inspection.”** The original and two copies of the redacted submission described in item (b) and their accompanying cover letters should be stamped **“Redacted—For Public Inspection.”** The cover letters accompanying both sets of submissions set forth in items (a) and (b) above should state that the party is filing a confidential portion of the submission and a redacted version of the entire submission. Other than bearing different stamps (i.e., “Confidential—Not for Public Inspection” or “Redacted—For Public Inspection”), the (a) and (b) cover letters should be identical. The submissions should be delivered in person to Marlene H. Dortch, Secretary, 445 12th Street, SW, Room TW-B-204, Washington, D.C., 20554; at the same address. Each redacted filing must also be submitted on a read-only CD-ROM⁵ formatted in Word 97 or Excel 97 format, as applicable. One set of the confidential and redacted submissions should also be delivered to Susan Pié, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, SW, Room 5-C224, Washington, D.C., 20554.

All questions relating to access to confidential information submitted by BellSouth should be directed to Laura S. Brennan, 202-367-7821, at Kellogg, Huber, Hansen, Todd & Evans, 1615 M Street, NW, Suite 400, Washington, D.C., 20036-3209.

Availability of Information. A wide range of information relating to BellSouth's section 271 application for the subject states may be retrieved from the Commission's World Wide Web site at <http://www.fcc.gov>.⁶ Specific information, such as comments and *ex parte* submissions, may be obtained from the ECFS, which is accessible through the Commission's website.

The application will be available for public inspection during regular business hours in the Reference Information Center of the Federal Communications Commission, Room CY-A-257, 445 12th Street, SW, Washington, D.C., 20554. Paper copies of the application, and the record generated in response thereto, may be obtained from the Commission's copy contractor.

⁵ If filing on CD-ROM is not possible, applicants may file on a 3.5 inch computer diskette.

⁶ The rules relating to public information and the inspection of records are set forth at sections 0.441 through 0.470 of the Commission's Rules. 47 C.F.R. §§ 0.441-0.470.

Ex Parte Rules - Permit-but-Disclose Proceeding. Because of the broad policy issues involved, section 271 application proceedings initially are classified as permit-but-disclose proceedings.⁷ Accordingly, *ex parte* presentations will be permitted, provided they are disclosed in conformance with the Commission's *ex parte* rules.⁸ Because of the 90-day statutory timeframe for decision, the Commission strongly encourages parties to set forth their views comprehensively in the formal filings specified above (e.g., written consultations, oppositions, supporting comments, etc.) and not to rely on subsequent *ex parte* presentations. In any event, parties may file no more than a total of 20 pages of written *ex parte* submissions. This 20-page limit does not include: (1) written *ex parte* submissions made solely to disclose an oral *ex parte* contact; (2) written material submitted at the time of an oral presentation to Commission staff that provides a brief outline of the presentation; (3) written material filed in response to direct requests from Commission staff; or (4) written factual exhibits. *Ex parte* submissions in excess of the 20-page limit will not be considered part of the record of this proceeding. In light of the statutory deadline for decision, parties are hereby requested to provide Susan Pié, 445 12th Street, SW Room 5-C224, Washington D.C. 20554 with courtesy copies of any *ex parte* presentations made to any member of the Commission.

For purposes of this proceeding, any oral *ex parte* presentations from the Department of Justice, and the State Commissions are deemed to be exempt *ex parte* presentations.⁹ To the extent that the Commission obtains through such oral *ex parte* presentations new factual information on which the Commission may rely in its decision-making process, the party submitting the information – either the Department of Justice, the State Commissions – shall prepare a summary for inclusion in the record in accordance with Commission rules, unless such a summary is being prepared by Commission staff.¹⁰ We also waive any page limits for written *ex parte* submissions by the Department of Justice or the State Commissions.¹¹

Notwithstanding the above, the Commission may, by subsequent public notice, prohibit all presentations to its decision-making personnel regarding the application during a seven-day

⁷ See 47 C.F.R. § 1.1206(a)(13) (added by 64 FR 68946, 68946 (1999) (effective Jan. 10, 2000)); e.g., Comments Requested on Application by Bell Atlantic for Authorization under Section 271 of the Communications Act to Provide In-region, InterLATA Service in the State of New York (CC Docket No. 99-295), Public Notice, DA 99-2014, 1999 WL 770903 (CCB rel. Sept. 29, 1999).

⁸ See 47 C.F.R. §§ 1.1202, 1.1206(b). Interested parties are to file with the Secretary of the Commission and serve Susan Pié, Competition Policy Division, Wireline Competition Bureau, Federal Communications Commission, Rm. 5-C224, 445 12th St., S.W., Washington, D.C. 20554, and Qualex International, Inc., Portals II, 445 12th St., S.W., Room CY-B402 Washington, D.C. 20554, with copies of written *ex parte* presentations in these proceedings in accordance with the Commission's *ex parte* rules.

⁹ See *id.* § 1.1200(a) (“Where the public interest so requires in a particular proceeding, the Commission and its staff retain the discretion to modify the applicable *ex parte* rules by order, letter, or public notice.”); *id.* § 1204(a)(6), as amended by 64 FR 68946, 68946 (1999) (effective Jan. 10, 2000).

¹⁰ See *id.* § 1.1206(a).

¹¹ See *id.* § 1.1200(a).

period preceding the anticipated release date of the Commission's order regarding the application.¹²

Ex Parte Meeting Schedule. The Wireline Competition Bureau will be available for meetings on **July 8-9, 2002** and **July 24-25, 2002**, in case interested parties wish to discuss any issues that they intend to raise in comments or reply comments, as applicable, in support of or in opposition to BellSouth's application. The purpose of these meetings is to give interested parties an opportunity to inform Bureau staff of such issues prior to filing their written comments or reply comments. The Bureau encourages interested parties to make joint presentations of common concerns to the extent feasible. Parties who wish to schedule meetings with the Bureau should call Susan Pie, Competition Policy Division, at (202) 418-1443.

Aside from the meetings listed above, *ex parte* meetings related to this proceeding will occur only at the request of Bureau staff.

Calendar

Ex Parte Meetings related to Comments: July 8-9, 2002

Comments Due: July 11, 2002

State Commission Comments Due: July 11, 2002

U.S. Department of Justice Evaluation: July 30, 2002

Ex Parte Meetings related to Reply Comments: July 24-25, 2002

Reply Comments Due: August 5, 2002

Statutory Deadline: September 18, 2002

By the Wireline Competition Bureau.

News Media contact: Michael Balmoris -- (202) 418-1500

Wireline Competition Bureau contact: Aaron Goldberger -- (202) 418-1591

¹² See *id.* §§ 1.1200; 1.1203.